



January 14, 2000

Ms. Shelly Doty
Records Manager
City of Cleburne
P. O. Box 677
Cleburne, Texas 76033-0677

OR2000-0153

Dear Ms. Doty:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131479.

The City of Cleburne (the "city") received a request for all calls for service, all traffic stops, and all records relating to fire and ambulance calls for service at a particular health care center for one year. You identify the request as encompassing three police incident reports which you claim are excepted from disclosure under sections 552.108(a)(1) and 552.101 of the Government Code. We assume that you have released the remaining submitted incident reports.¹ We have considered the exceptions you claim and reviewed the submitted information.

You assert that the requested information is excepted from disclosure because "it is 'information that would interfere with the detection, investigation or prosecution of the crime.'" Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere

¹We note that one of the incident reports appears to involve a juvenile suspect. Section 58.007(c) of the Family Code makes confidential law enforcement records concerning juvenile conduct that occurred on or after September 1, 1997. If the incident report is a juvenile law enforcement record, you must withhold it in its entirety pursuant to section 58.007(c). Regardless of whether you have released this incident report to the requestor, if it is an excepted juvenile record, you must withhold it from any future requestor.

on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977). You have not informed this office of the status of the investigation or prosecution; therefore, we cannot determine whether any portion of the requested information pertains to an ongoing criminal investigation or prosecution. You have not explained how the release of the information would interfere with the detection, investigation, or prosecution of crime. Therefore, you may not withhold the requested information under section 552.108(a)(1).

However, because some of the information concerns the privacy interests of third parties, we will consider your privacy argument under section 552.101. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses common law privacy, which excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992).

This office has found that an individual's personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). We agree that the personal credit card numbers must be withheld under section 552.101 as private information. In addition, the submitted information contains driver's license numbers and social security numbers, which may be protected from disclosure. The social security numbers in the reports may be confidential if they were obtained or are maintained by the department pursuant to any provision of law enacted on or after October 1, 1990. 42 U.S.C. 405(c)(2)(C)(vii); *see* Open Records Decision No. 622 (1994). Section 552.130 of the Government Code excepts information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. You must withhold the driver's license numbers under section 552.130. We have marked the information that must be withheld. Except for the marked material, incident reports 991235, 991347, and 991348 must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Patricia Michels Anderson
Assistant Attorney General
Open Records Division

PMA/jc

Ref: ID# 131479

Encl. Submitted documents

cc: Mr. K. Robinson
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(w/o enclosures)